

Billing Code: 3510-33-P

DEPARTMENT OF COMMERCE  
Bureau of Export Administration  
15 CFR Parts 738, 742, 746, and 774  
[Docket No. 000822242-0242-01]  
RIN: 0694-AC31

Crime Control Items: Revisions to the Commerce Control List  
AGENCY: Bureau of Export Administration, Commerce  
ACTION: Interim rule.

SUMMARY: In support of U.S. foreign policy to promote the observance of human rights throughout the world, the Bureau of Export Administration maintains controls on crime control items. This rule expands controls on restraint devices, such as handcuffs, and on discharge type arms, such as stun guns or shock batons.

DATES: Effective Dates: This rule is effective (DATE OF PUBLICATION).  
Comments: Written comments must be received no later than (30 DAYS FROM  
DATE OF PUBLICATION)

ADDRESSES: Written comments should be sent to Hillary Hess, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Director, Office of Strategic Trade, at (202) 482-0092.

SUPPLEMENTARY INFORMATION:

BACKGROUND:

The Bureau of Export Administration maintains the Commerce Control List (CCL), which contains items classified under Export Control Classification Numbers (ECCNs). This rule removes saps and police helmets and shields from ECCN 0A982, placing saps in new ECCN 0A978 and police helmets and shields in new ECCN 0A979. Distinguishing between restraint devices and other police equipment will result in more transparent licensing statistics on items controlled for crime control reasons. This rule also removes fingerprinting powders, dyes, and inks from ECCN 1A984 and places them in new ECCN 1A985, which improves the grouping of these items on the CCL. This rule then expands controls on restraint devices and on discharge type arms controlled under ECCNs 0A982 and 0A985, respectively, requiring a license for all destinations, except Canada, and imposes controls on technology for the development or production of those items under new ECCN 0E982. In addition, this rule modifies the license

review policy to include consideration of whether there is civil disorder in the country or region or whether there is evidence that the government of the importing country may have violated internationally recognized human rights. The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.

BXA is revising §742.7 to reflect the changes to crime control items on the CCL, and is making conforming changes to part 746 (Embargoes and Special Controls).

This action is taken consistent with the provisions of the Export Administration Act (EAA) and with the concurrence of the Secretary of State. BXA submitted a foreign policy report to the Congress indicating the expansion and imposition of new foreign policy controls on August 22, 2000.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), August 10, 1999 (64 F.R. 44101) and August 3, 2000 (65 FR 48347).

#### Saving Clause

Shipments of items removed from eligibility for export or reexport under the designator NLR, as a result of this regulatory action, may continue to be exported or reexported under that designator until [30 DAYS FROM DATE OF PUBLICATION]. In addition, this rule revises the numbering and structure of certain entries on the Commerce Control List. For items under such entries and for [30 DAYS FROM DATE OF PUBLICATION], BXA will accept license applications for items described either by the entries in effect immediately before [DATE OF PUBLICATION] or the entries described in this rule.

#### Rulemaking Requirements

1. This interim rule has been determined to be significant for purposes of E.O. 12866.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694-0088, "Multi-Purpose Application," which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA-748P. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. See 5 U.S.C. 553(a)(1). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close (INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION). The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

Copies of the public record concerning these regulations may be requested from: Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482-0637. This component does not maintain a separate public inspection facility. Requesters should first view BXA's website (which can be reached through <http://www.bxa.doc.gov>). If requesters cannot access BXA's website, please call the number above for assistance.

List of Subjects

15 CFR Parts 738, 742 and 774

Exports, Foreign trade.

15 CFR Part 746

Embargoes, Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 738, 742, 746, and 774 of the Export Administration Regulations (15 CFR parts 730 through 799) are amended as follows:

1. The authority citation for part 738 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 et seq.; 22 U.S.C. 287c; 22 U.S.C. 3201 et seq.; 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

2. The authority citation for part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 18 U.S.C. 2510 et seq.; 22 U.S.C. 3201 et seq.; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of November 12, 1998, 63 FR 63589, 3 CFR, 1998 Comp., p. 305; Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

3. The authority citation for part 746 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 22 U.S.C. 287c; 22 U.S.C. 6004; E.O. 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p.917; E.O. 13088, 63 FR 32109, 3 CFR, 1998 Comp., p. 191; E.O. 13121 of April 30, 1999, 64 FR 24021 (May 5, 1999); Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

4. The authority citation for part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 et seq.; 22 U.S.C. 287c, 22 U.S.C. 3201 et seq., 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; Notice of August 3, 2000 (65 FR 48347, August 8, 2000).

## **PART 738 - [AMENDED]**

5. Section 738.3 is amended by revising the phrase “ECCNs 0A988, 0A989, 0A999, 0B986, 0B999, 0D999, 1A999, 1B999, 1C355, 1C995, 1C998, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999” in paragraph (a)(2)(ii) to read “ECCNs 0A982, 0A985, 0A988, 0A989, 0A999, 0B986, 0B999, 0D999, 0E982, 1A999, 1B999, 1C355, 1C995, 1C998, 1C999, 1D999, 2A994, 2A999, 2B999, 2D994, 2E994, 3A999, and 6A999”.

## **PART 742 - [AMENDED]**

6. Section 742.7 is revised to read as follows:

### **§742.7 Crime Control.**

(a) License requirements. In support of U.S. foreign policy to promote the observance of human rights throughout the world, a license is required to export and reexport crime control and detection equipment, related technology and software as follows:

(1) Crime control and detection instruments and equipment and related technology and software identified in the appropriate ECCNs on the CCL under CC Column 1 in the Country Chart column of the "License Requirements" section. A license is required to countries listed in CC Column 1 (Supplement No. 1 to part 738 of the EAR). Items affected by this requirement are identified on the CCL under the following ECCNs: 0A978, 0A979, 0A984, 0A987, 0E984, 1A984, 1A985, 3A980, 3A981, 3D980, 3E980, 4A003 (for fingerprint computers only), 4A980, 4D001 (for fingerprint computers only), 4D980, 4E001 (for fingerprint computers only), 4E980, 6A002 (for police-model infrared viewers only), 6E001 (for police-model infrared viewers only), 6E002 (for police-model infrared viewers only), and 9A980.

(2) Shotguns with a barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 2 in the Country Chart column of the "License Requirements" section regardless of end-user to countries listed in CC Column 2 (Supplement No. 1 part 738 of the EAR).

(3) Shotguns with barrel length greater than or equal to 24 inches, identified in ECCN 0A984 on the CCL under CC Column 3 in the Country Chart column of the "License Requirements" section only if for sale or resale to police or law enforcement entities in countries

listed in CC Column 3 (Supplement No. 1 part 738 of the EAR).

(4) Certain crime control items require a license to all destinations, except Canada. These items are identified under ECCNs 0A982, 0A985, and 0E982. Controls for these items appear in each ECCN; a column specific to these controls does not appear in the Country Chart (Supplement No. 1 to part 738 of the EAR).

(5) See §742.11 of the EAR for further information on items controlled under ECCN 0A983, which require a license to all destinations, including Canada.

(b) Licensing policy. Applications for items controlled under this section will generally be considered favorably on a case-by-case basis unless there is civil disorder in the country or region or unless there is evidence that the government of the importing country may have violated internationally recognized human rights. The judicious use of export controls is intended to deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.

(c) Contract sanctity. Contract sanctity date: August 22, 2000. Contract sanctity applies only to items controlled under ECCNs 0A982, 0A985 and 0E982 destined for countries not listed in CC Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR).

(d) U.S. controls. Although the United States seeks cooperation from like-minded countries in maintaining controls on crime control and detection items, at this time these controls are maintained only by the United States.

## **PART 746 - [AMENDED]**

7. Section 746.8 is amended by revising paragraph (b)(1)(ii) to read as follows:

### **§746.8 Rwanda.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(ii) Items described by any ECCN ending in "018", and items described by ECCNs 0A978; 0A979; 0A982; 0A984; 0A986; 0A988; 0B986; 0E982; 1A005; 5A980; 6-A002.a.1, a.2, a.3, and .c; 6A003.b.3 and b.4; 6E001; 6E002; and 9A991.a.

\* \* \* \* \*

6. Section 746.9 is amended by revising paragraph (b)(1)(ii) to read as follows:

**§746.9 Serbia, Kosovo, and Montenegro.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(ii) Items described by ECCNs ending in "018"; and 0A978, 0A979, 0A982, 0A983, 0A984, 0A985, 0A986, 0A988, 0A989, 0B986, 0E982, 0E984, 1A005, 1A984, 1A985, 2A993, 3A980, 3A981, 3D980, 3E980, 4A980, 4D980, 4E980, 5A980, 6A002, 6A003.b.3 and b.4, 6E001, 6E002, 9A980, and 9A991.a.

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**PART 774 - [AMENDED]**

8. In Supplement No. 1 to part 774 (the Commerce Control List), Category 0 - Nuclear Materials, Facilities & Equipment and Miscellaneous, new ECCNs 0A978, 0A979, and 0E982 are added, and ECCNs 0A982 and 0A985 are revised to read as follows:

**0A978 Saps.**

**License Requirements**

Reason for Control: CC

Control(s)

Country Chart

CC applies to entire entry

CC Column 1

**License Exceptions**

LVS: N/A  
 GBS: N/A  
 CIV: N/A

### List of Items Controlled

Unit: \$ value  
Related Controls: N/A  
Related Definitions: N/A  
Items:

The list of items controlled is contained in the ECCN heading.

### 0A979 Police helmets and shields; and parts, n.e.s.

#### License Requirements

Reason for Control: CC

<u>Control(s)</u>	<u>Country Chart</u>
CC applies to entire entry	CC Column 1

#### License Exceptions

LVS: N/A  
 GBS: N/A  
 CIV: N/A

### List of Items Controlled

Unit: \$ value  
Related Controls: N/A  
Related Definitions: N/A  
Items:

The list of items controlled is contained in the ECCN heading.

\* \* \* \* \*



**0A982 Restraint devices, including thumbcuffs, leg irons, shackles, and handcuffs; straight jackets, plastic handcuffs; and parts and accessories, n.e.s.**

#### **License Requirements**

Reason for Control: CC

#### Control(s)

CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

#### **License Exceptions**

LVS: N/A

GBS: N/A

CIV: N/A

#### **List of Items Controlled**

Unit: \$ value

Related Controls: N/A

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

\* \* \* \* \*

**0A985 Discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles) except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.**

#### **License Requirements**

Reason for Control: CC, UN

Control(s)

CC applies to entire entry. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

UN applies to entire entry                      Rwanda; Federal  
    Republic of Yugoslavia  
    (Serbia and Montenegro).

**License Exceptions**

LVS: N/A  
 GBS: N/A  
 CIV: N/A

**List of Items Controlled**

Unit: \$ value  
Related Controls: N/A  
Related Definitions: N/A  
Items:

The list of items controlled is contained in the ECCN heading.

\*       \*       \*       \*       \*

**0E982 “Technology” exclusively for the “development” or “production” of equipment controlled by 0A982 or 0A985.**

**License Requirements**

Reason for Control:    CC

Control(s)

CC applies to “technology” for items controlled by 0A982 or 0A985. A license is required for ALL destinations, except Canada, regardless of end-use. Accordingly, a column specific to this control does not appear on the Commerce Country Chart. (See part 742 of the EAR for additional information.)

**License Exceptions**

CIV: N/A

TSR: N/A

**List of Items Controlled**Unit: N/ARelated Controls: N/ARelated Definitions: N/AItems:

The list of items controlled is contained in the ECCN heading.

\*       \*       \*       \*       \*

9. In Supplement No. 1 to part 774 (the Commerce Control List), Category 1 - Materials, Chemicals, “microorganisms,” and Toxins, ECCN 1A984 is revised and a new ECCN 1A985 is added to read as follows:

**1A984 Chemical agents, including tear gas formulation containing 1 percent or less of orthochlorobenzalmalonitrile (CS), or 1 percent or less of chloroacetophenone (CN), except in individual containers with a net weight of 20 grams or less; smoke bombs; non-irritant smoke flares, canisters, grenades and charges; and other pyrotechnic articles having dual military and commercial use.**

**License Requirements**Reason for Control: CCControl(s)

CC applies to entire entry

Country Chart

CC Column 1

**License Exceptions**

LVS: N/A  
 GBS: N/A  
 CIV: N/A

**List of Items Controlled**

Unit: \$ value  
Related Controls: N/A  
Related Definitions: N/A  
Items:

The list of items controlled is contained in the ECCN heading.

**1A985 Fingerprinting powders, dyes, and inks.****License Requirements**

Reason for Control: CC

Control(s)

Country Chart

CC applies to entire entry

CC Column 1

**License Exceptions**

LVS: N/A  
 GBS: N/A  
 CIV: N/A

**List of Items Controlled**

Unit: \$ value  
Related Controls: N/A  
Related Definitions: N/A  
Items:

The list of items controlled is contained in the ECCN heading.

\* \* \* \* \*

DATED:

R. Roger Majak  
Assistant Secretary  
for Export Administration